

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

CR-14-02-BMM

Plaintiff,

vs.

JAY HARDWOOD OLD CHIEF,

Defendant.

**FINDINGS AND
RECOMMENDATIONS TO
REVOKE DEFENDANT'S
SUPERVISED RELEASE**

I. Synopsis

The United States accused Mr. Old Chief of violating his conditions of supervised release by (1) failing to report to his probation officer as directed, (2) failing to register as a violent offender, (3) failing to report for substance abuse testing, and (4) failing to report for substance abuse testing. Mr. Old Chief admitted to the violations. His supervised release should be revoked, and he should be sentenced to time served, with twenty-eight months of supervised release to follow to include treatment at Connections Corrections.

II. Status

On June 10, 2014, Mr. Old Chief pleaded guilty to Assault Resulting in Serious Bodily Injury and Sexual Abuse. On September 19, 2014, United States District Court Judge Brian Morris sentenced Mr. Old Chief to twenty-eight months

on both counts, to run concurrently, followed by thirty-six months of supervised release on each count, also to run concurrently. (Doc. 61.)

On May 18, 2016, the United States Probation Office (USPO) filed a Report of Offender Under Supervision addressing Mr. Old Chief's use of Suboxone. (Doc. 65.) The Court allowed Mr. Old Chief to continue his supervised release.

On July 7, 2016, the USPO filed a second Report of Offender Under Supervision addressing Mr. Old Chief's continued use of Suboxone. (Doc. 66.) The Court again allowed Mr. Old Chief to continue his supervised release.

On July 14, 2016, the USPO filed Petition for Warrant for Offender Under Supervision relating to Mr. Old Chief's use of methamphetamine, failure to attend treatment and testing, failure to report, and failure to maintain employment. (Doc. 67.) The Court dismissed the petition and allowed Mr. Old Chief to continue his supervision.

On September 22, 2016, the USPO filed a third Report of Offender Under Supervision detailing Mr. Old Chief's use of methamphetamine. (Doc. 75.) The Court allowed Mr. Old Chief to continue his supervision.

On September 26, 2016, the USPO filed a fourth Report of Offender Under Supervision addressing Mr. Old Chief's failure to make payments towards his Special Assessment. (Doc. 76.) The Court allowed Mr. Old Chief to continue his

supervised release.

Judge Morris revoked Mr. Old Chief's supervised release on December 12, 2016, because he used methamphetamine, failed to report to his probation officer, failed to report for substance abuse testing, and failed to report for substance abuse treatment. (Doc. 90.) Judge Morris sentenced Mr. Old Chief to four months in custody, with thirty-two months of supervised release to follow. (*Id.*) Mr. Old Chief began his current term of supervised release on January 17, 2017.

Petition

On February 17, 2017, the United States Probation Office filed a petition asking the Court to revoke Mr. Old Chief's supervised release. (Doc. 92.) The Probation Office accused Mr. Old Chief of violating his conditions of supervised release by (1) failing to report to his probation officer as directed, (2) failing to register as a violent offender, (3) failing to report for substance abuse testing, and (4) failing to report for substance abuse testing. (*Id.*) Based on the petition, Judge Morris issued a warrant for Mr. Old Chief's arrest. (Doc. 93.)

Initial appearance

On March 7, 2017, Mr. Old Chief appeared before the undersigned in Great Falls, Montana, for an initial appearance. Federal Defender Evangelo Arvanetes accompanied him at the initial appearance. Assistant United States Attorney Ryan

Weldon represented the United States.

Mr. Old Chief said he had read the petition and understood the allegations. He waived the preliminary hearing, and the parties consented to proceed with the revocation hearing before the undersigned. The Court continued the revocation hearing so the Probation Office could explore treatment options for Mr. Old Chief.

Revocation hearing

The Court conducted Mr. Old Chief's revocation hearing on June 20, 2017. Mr. Old Chief admitted that he violated the conditions of his supervised release. The violations are serious and warrant revocation of his supervised release.

Mr. Old Chief's violation grade is Grade C, his criminal history category is I, Count I of his underlying offenses is a Class C felony, and Count II is a Class D felony. He could be incarcerated for up to twenty-four months on each count. He could be ordered to remain on supervised release for thirty-six months, less any custody time imposed, for each count. The United States Sentencing Guidelines call for three to nine months in custody.

The parties agreed that a sentence of time served, with twenty-eight months of supervised release to follow to include treatment at Connections Corrections would appropriate in this instance. Both parties waived their right to appeal this sentence.

III. Conclusion

Mr. Old Chief's supervised release should be revoked because he admitted violating its conditions. Mr. Old Chief should be sentenced to time served, with twenty-eight months of supervised release to follow. His supervised release should include substance abuse treatment at Connections Corrections. This sentence would be sufficient given the serious violation of the Court's trust, but it would not be greater than necessary.

The Court **FINDS:**

Jay Harwood Old Chief violated the conditions of his supervised release (1) failing to report to his probation officer as directed, (2) failing to register as a violent offender, (3) failing to report for substance abuse testing, and (4) failing to report for substance abuse testing.

The Court **RECOMMENDS:**

The district court should enter the attached Judgment, revoking Mr. Old Chief's supervised release and committing him to the custody of the United States Bureau of Prisons for time served, with twenty-eight months of supervised release to follow. His supervised release should include substance abuse treatment at Connections Corrections.

Dated the 20th day of June 2017.



John Johnston
United States Magistrate Judge